

BEFORE THE STATE LOTTERY COMMISSION
DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
2.63.1201 and the repeal of ARM)	AMENDMENT AND REPEAL
2.63.1007, concerning the State)	
Lottery's procedures pertaining to prizes)	NO PUBLIC HEARING
and sales incentives)	CONTEMPLATED

TO: All Concerned Persons

1. On December 14, 2007, the State Lottery Commission proposes to amend and repeal the above-stated rules. On August 23, 2007, the commission published MAR Notice No. 2-63-383 pertaining to the proposed amendment and repeal of the above-stated rules at page 1139 of the 2007 Montana Administrative Register, Issue No. 16. These rules are being renoticed because the statement of reasonable necessity was found to be insufficient. The statement of reasonable necessity has been revised to better reflect the reason for the proposed changes. All other text in this document has been unchanged and is being submitted exactly as proposed in MAR Notice No. 2-63-383.

2. The State Lottery Commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the State Lottery Commission no later than 5:00 p.m. on November 6, 2007, to advise us of the nature of the accommodation that you need. Please contact John Tarr, State Lottery, P.O. Box 200544, Helena, MT 59620-0544, telephone (406) 444-5804, fax (406) 444-5830, e-mail jtarr@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.63.1201 PRIZES (1) and (2) remain the same.

(3) The claimant's name, city of residence, and amount of prize is public information. The lottery may use a claimant's name and photograph for publicity and advertising purposes only upon written authorization by the claimant.

(4) through (7) remain the same.

(8) Upon validation of a winning claim, a check, electronic transfer, or warrant for the amount of the prize shall be issued to the claimant, less any applicable state or federal income tax withholding.

(9) through (11) remain the same.

(12) If the commission enters into an agreement to participate in a game for prizes over \$100,000 that requires payment periods of more than 20 years or yearly installment payments of less than \$20,000 as a condition of participation, the commission may adopt the installment payment amounts and time periods necessary to comply with the conditions of the game.

~~(42)~~ (13) All prizes payable at the death of a winner, shall be paid to a designated beneficiary, the estate of the deceased, or to a person designated by judicial order.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-211, MCA

REASONABLE NECESSITY: The amendment to (3) requires that written authorization by the claimant must be given before the information may be used for publicity or for advertising purposes. This is necessary for the Lottery to use claimant information in Lottery advertisement campaigns to promote sales and player awareness of Lottery products.

The amendment to (8) allows the Lottery to provide the option of electronic transfer of prize winnings directly to the claimant's account. When the original rule was written, this type of transfer was not available within the banking world. The use of the electronic funds transfer encourages fast processing and ensures timely payments of prize money. This process is reasonably necessary because it benefits both the state and the claimant who receives payment more quickly, and the state is relieved of the need to process paper warrants.

A new (12) is added to fully implement the exception provided for in 23-7-311(3)(b), MCA, concerning the 20-year maximum pay out period and \$20,000 minimum annual installment for prize payouts. This is reasonably necessary because the Lottery currently participates in Multi-State Lottery games requiring payment periods of more than 20 years.

4. The department proposes to repeal the following rule:

2.63.1007 SALES STAFF INCENTIVE PLAN found at page 2-6542 of the Administrative Rules of Montana.

AUTH: 23-7-202, MCA

IMP: 23-7-202, MCA

REASONABLE NECESSITY: This repeal is necessary because there is no further funding for the Sales Staff Incentive Plan. The repeal is necessary to implement the intent of the Montana Legislature that no sales commission structure be authorized for Lottery sales personnel. Not repealing this rule would place the Montana Lottery in a direct conflict with legislative guidance.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: John Tarr, State Lottery, P.O. Box 200544, Helena, MT 59620-0544, telephone (406) 444-5804, fax (406) 444-5830, e-mail jtarr@mt.gov, and must be received no later than 5:00 p.m., November 23, 2007.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to John Tarr at the above address no later than 5:00 p.m., November 23, 2007.

7. If the commission receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons directly affected by the proposed actions; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 30 persons based on the number of lottery retailers in the state.

8. The State Lottery Commission maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the commission.

9. An electronic copy of this Proposal Notice is available through the Department of Administration's web site at <http://doa.mt.gov/AdministrativeRules.asp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Robert Crippen
Robert Crippen, Chair
Montana Lottery Commission

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 15, 2007.